

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILLIAM RIVERA,

Plaintiff,

-against-

BONILLA NYS DIN# 98-A-7337; SUPT.
MICHAEL CAPRA, SING SING CF,

Defendants.

22-CV-4787 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

On October 25, 2022, the Court dismissed this action pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), and as time barred. On November 18, 2022, Plaintiff filed a motion for extension of time to file a notice of appeal, (ECF No.14), and a notice of appeal, (ECF No. 15.) For the reasons set forth below, Plaintiff’s motion for an extension of time to file a notice of appeal (ECF No. 14) is denied as unnecessary.

DISCUSSION

Under Fed. R. App. P. 4(a)(1)(A), a notice of appeal in a civil case must be filed within 30 days after entry of judgment. “[T]he taking of an appeal within the prescribed time is mandatory and jurisdictional.” *In re WorldCom, Inc.*, 708 F.3d 327, 329 (2d Cir. 2013) (citation and internal quotation marks omitted). Because Plaintiff’s time to file a notice of appeal had not expired, a motion for extension of time to appeal was unnecessary. Accordingly, Plaintiff’s request for an extension of time to appeal is denied as unnecessary.¹

¹ By Mandate issued on June 15, 2023, the United States Court of Appeals dismissed Plaintiff’s appeal because “it lack[ed] an arguable basis either in law or in fact.” (ECF No. 16.)

CONCLUSION

Plaintiff's request for an extension of time to file a notice of appeal (ECF No. 14) is denied as unnecessary.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: September 14, 2023
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge